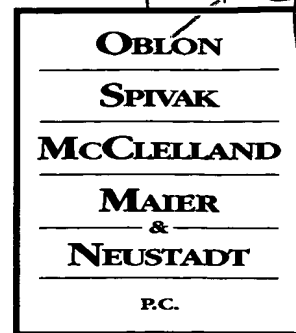




IFW PET \$



Docket No.: 257550US0PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

ATTORNEYS AT LAW

RE: Application Serial No.: 10/507,025

Applicants: Mario PINZA, et al.

Filing Date: January 25, 2005

For: USE OF AN L-ASCORBIC ACID SALT TO
PREPARE A PHARMACEUTICAL COMPOSITION,
FOR OPHTHALMIC TOPICAL USE, CAPABLE OF
IMPROVING THE LEVEL OF L-ASCORBIC ACID
IN THE EYE

Group Art Unit: 1618

Examiner: FAY, ZOHREH A.

SIR:

Attached hereto for filing are the following papers:

**Response and Request for Reconsideration - 3 pgs.
Request for Extension of Time - (One Month)**

Our credit card payment form in the amount of \$120.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

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DOCKET NO: 257550US0PCT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MARIO PINZA, ET AL. : EXAMINER: FAY, ZOHREH A.
SERIAL NO: 10/507,025 :
FILED: JANUARY 25, 2005 : GROUP ART UNIT: 1618
FOR: USE OF AN L-ASCORBIC ACID :
SALT TO PREPARE A
PHARMACEUTICAL COMPOSITION,
FOR OPHTHALMIC TOPICAL USE,
CAPABLE OF IMPROVING THE LEVEL
OF L-ASCORBIC ACID IN THE EYE

RESPONSE AND REQUEST FOR RECONSIDERATION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Office Action dated July 26, 2006, Applicants request respectfully
request reconsideration of the above-identified application in view of the following remarks:

Request for Reconsideration begins on page 2 of this paper.

REQUEST FOR RECONSIDERATION

The rejection of claims 1-21 under 35 U.S.C. § 103(a) as obvious over Nelson et al. (U.S. Patent No. 4,490,389) in view of Fritsch et al. (U.S. Patent No. 5,445,827) is respectfully traversed. Reconsideration is requested in view of the remarks, as follows.

The Office has not shown any suggestion or motivation for combining the cited references to achieve the claimed composition comprising a salt of L-ascorbic acid and a pharmaceutically acceptable organic base, or a therapeutic method comprising topically administering a composition thereof.

In particular, it is noted, as recited in MPEP § 2143 *et seq.*, that there must be some suggestion or motivation to combine or modify references. Moreover, the MPEP recites that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests desirability of the combination.” See *id.* (citing In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). (Emphasis in original).

In the present case, it is noted that the Nelson et al. reference generally describes a method for sterilizing *contact lenses*. It is also noted, as pointed out by the Office, that Nelson et al. generally describes the use of ascorbic acid in combination with tromethamine in a contact lens solution. See present Office Action at page 3, lines 1-2.

It is further noted that the Office indicates that Fritsch et al. describes the use of ascorbic acid, in combination with an agent such as lysine, arginine and N-methylglucosamine. See *id.* at lines 4-6.

However, contrary to the Office’s assertion that it would be obvious to combine the disclosures of the references, there is no suggestion or motivation provided in the references to do so. In particular, Fritsch et al. relates to an effervescent *ibuprofen* preparation, which clearly does not relate to or involve the use of a *contact lens solution* whatsoever. Moreover,

the Office has not shown, nor do the references provide, any evidentiary support for selectively picking and choosing the components of an *ibuprofen* preparation for use in a contact lens solution.

Moreover, other than hindsight of the present specification, one would not look to Fritsch et al. to cure the deficiencies of the disclosure of the Nelson et al. reference.

Accordingly, withdrawal of the rejection is requested.

Applicants submit that the application is now in condition for allowance. Notification of such allowance is earnestly solicited.

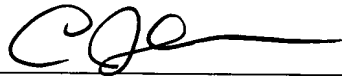
Respectfully submitted,

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